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**REMARKS**

Claims 1, 15 and 16 are amended herein. Claims 1-36 will be pending upon entry of this amendment.

The following remarks are responsive to the final Office action mailed September 1, 2006.

Response to Claim Rejections

Claim 1

Amended claim 1 is directed to an absorbent garment for wear about a wearer's waist. The absorbent garment comprises:

a garment shell configured for encircling the wearer's waist and having a front waist region, a front waist end at said front waist region, a back waist region, and a back waist end at said back waist region, the garment shell comprising a front panel assembly having laterally opposite side margins, and a back panel assembly having laterally opposite side margins; and

an absorbent assembly disposed within the garment shell and constructed to take in and retain body exudates released by the wearer, the absorbent assembly having an inner surface adapted for contiguous relationship with the wearer's body, an outer surface, a front waist region in opposed relationship with the front waist region of the garment shell, a back waist region in opposed relationship with the back waist region of the garment shell, a crotch region extending longitudinally between and interconnecting the front waist region and the back waist region, a front waist end and a back waist end, laterally

spaced front side panels extending outward from the front waist region and laterally opposite back side panels extending outward from the back waist region, the front side panels of the absorbent assembly being attached to the garment shell generally at the side margins of the front panel assembly to together define front side margins of the absorbent garment, said back side panels of the absorbent assembly being attached to the garment shell generally at the side margins of the back panel assembly to together define back side margins of the absorbent garment, the front side margins and the back side margins of the absorbent garment being releasably and refastenably attached to each other to removably secure the absorbent garment on the wearer's waist.

As described in paragraph [00110] and shown, for example, in Figs. 9 and 10 of the present specification, an absorbent garment 10 according to one embodiment has a garment shell 422, an absorbent assembly 424 disposed within the garment shell, and fastening components 452, 454. As shown in Fig. 10, one set of fastening components 452 is attached to an outer surface of the garment shell 422, and the other set of fastening components 454 is attached to an inner surface of the absorbent assembly 424. In the illustrated embodiment, front side panels 580 of the absorbent assembly are attached to the side margins 448 of the front panel assembly 426 of the garment shell and back side panels 582 are attached to the side margins 450 of the back panel assembly of the garment shell. As such, the side panels of the absorbent assembly and side margins of the

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garment shell together define joint side margins of the absorbent garment.

By securing the absorbent assembly side panels to the side margins of the garment shell in this manner, the garment shell and absorbent assembly can be conjointly refastenably opened and closed along the side margins of the garment by using a single set of fasteners. That is, opening the garment along the side margins thereof conjointly opens both the garment shell and the absorbent assembly.

Amended claim 1 is submitted to be nonobvious in view of and patentable over the references of record, and in particular U.S. Patent No. 6,115,847 (Rosch et al.) in view of U.S. Patent Application Publication No. 2002/0087137 (Christoffel et al.), in that whether considered alone or in combination the references fail to show or suggest an absorbent garment in which 1) front side panels of an absorbent assembly of the garment are attached to a garment shell generally at the side margins of a front panel assembly of the garment shell to together define front side margins of the absorbent garment, 2) back side panels of the absorbent assembly are attached to the garment shell generally at the side margins of a back panel assembly of the garment shell to together define back side margins of the absorbent garment, and 3) the front side margins and the back side margins of the absorbent garment are releasably and refastenably attached to each other to removably secure the absorbent garment on the wearer's waist.

Rosch et al., with reference to Figs. 1 and 2 thereof, disclose an active wear garment 10 comprised of a pant structure 12 and a skirt cover 14. The skirt cover 14 has a front panel 15 (Fig. 1) secured to a back panel 21 (Fig. 2). The front panel 15 of the skirt cover 14 has a pair of side edges 17, 19 and the back panel 21 has a pair of side edges 23, 25. Rosch et al. disclose that the side edges 17, 19 of the front panel 15 can be joined to the respective side edge 23, 25 of the back panel 21 to form a one piece skirt cover 14. The side edges 17, 19, 23, 25 can be either refastenably or non-refastenably joined. Alternatively, the side edges 17, 19, 23, and 25 can be free from joining thereby forming a two-piece skirt cover 14.

As illustrated in Fig. 2, the pant structure 12 includes front and back longitudinally spaced waist band regions 20 and 22. A crotch area 24 extends between the front waist band region 20 and the back band waist region 22. A left side panel 26 and a right side panel 28 extend between the front waist region 20 and the back waist region 22. The side panels 26, 28 of the pant structure provide a manually tearable, non-refastenable region. Nowhere does Rosch et al. teach or suggest that the side panels 26, 28 of the pant structure 12 can be attached to the skirt cover 14, let alone at the side edges 17, 19, 23, 25 thereof.

In Figs. 4 and 5, Rosch et al. disclose a garment 110 of a second embodiment having a trunk (e.g., shorts-type) cover 114 instead of the skirt cover 14 shown in Figs. 1 and 2. The

trunk cover 114 can be combined with a pant structure 112 or used by itself (i.e., without a pant structure). When the pant structure 112 is combined with the trunk cover 114, the pant structure and the trunk cover are joined at the waist. The trunk cover 114 includes a pair of front side edges 117, 119 and a pair of back side edges 123, 125. One of the front side edges 117 is joined to one of the back side edges 123, and the other front side edge 119 is joined to the other back side edge 125. The front and back side edges 117, 119, 123, 125 can be non-refastenably joined together or can be refastenably joined.

As shown in Fig. 5, the pant structure 112 includes front and back longitudinally spaced waist band regions 120 and 122, and a crotch area 124 extending between the front and back waist band regions. A left side panel 126 and a right side panel 128 extend laterally between the front waist region 120 and the back waist region 122. The left and right side panels 126, 128 can form manually tearable, non-refastenable regions of the pant structure 112 (Fig. 4) or, as it appears in Fig. 5, the left and right side panels can form refastenable regions of the pant structure. Nowhere, however, does Rosch et al. teach or suggest that the side panels 126, 128 of the pant structure 112 can be attached to the trunk cover 114, let alone along the side edges 117, 119, 123, 125 of the trunk cover.

Because the side panels 126, 128 of the pant structure 112 are not attached to the side edges 117, 119, 123, 125 of the trunk cover 114, the side panels 126, 128 of the pant structure must be opened separate from the side edges 117, 119, 123, 125

of the trunk cover. That is, to open the garment of Rosch et al. along the side seams, a user must first separate the side edges of the trunk cover 114 and then separately separate the side edges of the pant structure 112.

In contrast, by attaching the front and back side panels of the recited absorbent assembly to the side margins of the recited front and back panel assemblies of the garment shell as recited in claim 1, only one set of fasteners and one opening motion is needed to open each side of the garment.

Rosch et al. thus fail to disclose or suggest 1) front side panels of an absorbent assembly of the garment are attached to a garment shell generally at the side margins of a front panel assembly of the garment shell to together define front side margins of the absorbent garment, 2) back side panels of the absorbent assembly are attached to the garment shell generally at the side margins of a back panel assembly of the garment shell to together define back side margins of the absorbent garment, and 3) the front side margins and the back side margins of the absorbent garment are releasably and refastenably attached to each other to removably secure the absorbent garment on the wearer's waist.

Christoffel et al. does not add to the teachings of Rosch et al. In each embodiment illustrated and described in Christoffel et al., a one-piece disposable swimsuit 20 comprises a chassis 22 secured to a bodice 42 to form the one-piece swimsuit. In some of the disclosed embodiments the swimsuit 20 may further incorporate a relatively small

rectangular integral absorbent assembly 54. See, e.g., Fig. 2 and paragraphs [0089-0091] in which the absorbent assembly is disposed between the coverstock 50 and a body side liner 108. In other embodiments, Christoffel et al. teach that the swimsuit 20 may be worn over a separate absorbent garment 88 (such as an absorbent swim pant). See, e.g., Fig. 16 and paragraph [0069].

Thus, Christoffel et al. fail to teach that the swimsuit is separable at all along side seams thereof. As such, Christoffel et al. (like Rosch et al.) fail to teach or suggest an absorbent garment in which 1) front side panels of an absorbent assembly of the garment are attached to a garment shell generally at the side margins of a front panel assembly of the garment shell to together define front side margins of the absorbent garment, 2) back side panels of the absorbent assembly are attached to the garment shell generally at the side margins of a back panel assembly of the garment shell to together define back side margins of the absorbent garment, and 3) the front side margins and the back side margins of the absorbent garment are releasably and refastenably attached to each other to removably secure the absorbent garment on the wearer's waist.

Since both Rosch et al. and Christoffel et al. fail individually to teach or suggest such a feature, a combination of these references must also fail to teach or suggest this feature of claim 1.

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For these reasons, amended claim 1 is submitted to be nonobvious in view of and patentable over the references of record.

Claims 2-20 depend directly or indirectly from amended claim 1 and are submitted to be patentable over the references of record for at least the same reasons as claim 1.

Claim 21

Claim 21 is directed to an absorbent garment for wear about a wearer's waist. The absorbent garment comprises:

a garment shell configured for encircling the wearer's waist and being further configured as a pair of shorts having a pair of leg openings defining outer leg openings of the absorbent garment; and

an absorbent assembly disposed within the garment shell and constructed to take in and retain body exudates released by the wearer, at least a portion of the absorbent assembly being attached to the garment shell, said absorbent assembly having an inner surface adapted for contiguous relationship with the wearer's body, an outer surface, a front waist region, a back waist region, and a crotch region extending longitudinally between and interconnecting the front waist region and the back waist region of the absorbent assembly, said absorbent assembly at least in part defining inner leg openings of the absorbent garment wherein said inner leg openings are separate from the outer leg openings of the absorbent garment;

the absorbent garment further having a waist opening, laterally opposite front side margins and corresponding laterally opposite back side margins, the front side margins and back side margins being at least in part defined by the garment shell, said front side margins of the absorbent garment being in overlapping relationship with said back side margins of the absorbent garment to define laterally opposite side seams of the absorbent garment wherein the side seams each have a length extending generally from the waist opening of the absorbent garment to a respective one of the outer leg openings of the absorbent garment, said side seams of the absorbent garment each having a respective upper segment along which the front side margins and back side margins of the absorbent garment are attached to each other, said upper segment having a length extending from the waist opening of the absorbent garment to less than about 50 percent of the length of the side seam, the front side margins and the back side margins of the absorbent garment being free from attachment to each other along the remaining length of each respective side seam generally from the upper segment of said side seam to the respective outer leg opening of the absorbent garment.

As described in paragraph [00116] and shown, for example, in Fig. 11 of the present specification, an absorbent garment 10 according to one embodiment has a garment shell 422 and an absorbent assembly 424 disposed within the garment shell. As shown in Fig. 11, overlapping front and back side margins 16, 18 of the absorbent garment 10 are attached to each other along

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a small upper segment 602 thereof. The side margins 16, 18 are otherwise substantially free from engagement along the remaining length of the side margins.

Claim 1 is submitted to be nonobvious in view of and patentable over the references of record, and in particular U.S. Patent No. 6,115,847 (Rosch et al.) in view of U.S. Patent Application Publication No. 2002/0087137 (Christoffel et al.), in that whether considered alone or in combination the references fail to show or suggest an absorbent garment including front side margins of the absorbent garment being in overlapping relationship with back side margins of the absorbent garment to define laterally opposite side seams of the absorbent garment wherein the side seams each have a length extending generally from the waist opening of the absorbent garment to a respective one of the outer leg openings of the absorbent garment, said side seams of the absorbent garment each having a respective upper segment along which the front side margins and back side margins of the absorbent garment are attached to each other, said upper segment having a length extending from the waist opening of the absorbent garment to less than about 50 percent of the length of the side seam, the front side margins and the back side margins of the absorbent garment being free from attachment to each other along the remaining length of each respective side seam generally from the upper segment of said side seam to the respective outer leg opening of the absorbent garment.

Rosch et al., with reference to Figs. 1 and 2 thereof, disclose an active wear garment 10 comprised of a pant structure 12 and a skirt cover 14. The skirt cover 14 has a front panel 15 (Fig. 1) secured to a back panel 21 (Fig. 2). The front panel 15 of the skirt cover 14 has a pair of side edges 17, 19 and the back panel 21 has a pair of side edges 23, 25. Rosch et al. disclose that the side edges 17, 19 of the front panel 15 can be joined to the respective side edge 23, 25 of the back panel 21 to form a one piece skirt cover 14. The side edges 17, 19, 23, 25 can be either refastenably or non-refastenably joined along substantially their entire length. Alternatively, the side edges 17, 19, 23, and 25 can be free from joining along their entire length thereby forming a two-piece skirt cover 14.

As illustrated in Fig. 2, the pant structure 12 includes front and back longitudinally spaced waist band regions 20 and 22. A crotch area 24 extends between the front waist band region 20 and the back waist band region 22. A left side panel 26 and a right side panel 28 extend between the front waist region 20 and the back waist region 22. The side panels 26, 28 of the pant structure provide a manually tearable, non-refastenable region.

In Figs. 4 and 5, Rosch et al. disclose a garment 110 of a second embodiment having a trunk (e.g., shorts-type) cover 114 instead of the skirt cover 14 shown in Figs. 1 and 2. The trunk cover 114 can be combined with a pant structure 112 or used by itself (i.e., without a pant structure). When the pant

structure 112 is combined with the trunk cover 114, the pant structure and the trunk cover are joined at the waist. The trunk cover 114 includes a pair of front side edges 117, 119 and a pair of back side edges 123, 125. One of the front side edges 117 is joined to one of the back side edges 123, and the other front side edge 119 is joined to the other back side edge 125. The front and back side edges 117, 119, 123, 125 can be non-refastenably joined together or can be refastenably joined along substantially their entire length.

As shown in Fig. 5, the pant structure 112 includes front and back longitudinally spaced waist band regions 120 and 122, and a crotch area 124 extending between the front and back waist band regions. A left side panel 126 and a right side panel 128 extend laterally between the front waist region 120 and the back waist region 122. The left and right side panels 126, 128 can form manually tearable, non-refastenable regions of the pant structure 112 (Fig.4) or, as it appears in Fig. 5, the left and right side panels can form refastenable regions of the pant structure.

Nowhere does Rosch et al. teach or suggest that the side edges of garment 10, 110 can be attached from the waist opening of the absorbent garment to less than about 50 percent of the length of the side seam with the remaining length of the side seam being free from attachment to each other. Rather, the only teaching or suggestion found in Rosch et al. is to secured the side seams along the entire length thereof. As such, Rosch

et al. fail to disclose or suggest this feature as recited in claim 21.

In each embodiment illustrated and described in Christoffel et al. a one-piece disposable swimsuit 20 comprises a chassis 22 secured to a bodice 42 to form the one-piece swimsuit. In some of the disclosed embodiments the swimsuit 20 may further incorporate a relatively small rectangular integral absorbent assembly 54. See, e.g., Fig. 2 and paragraphs [0089-0091] in which the absorbent assembly is disposed between the coverstock 50 and a body side liner 108. In other embodiments, Christoffel et al. teach that the swimsuit 20 may be worn over a separate absorbent garment 88 (such as an absorbent swim pant). See, e.g., Fig. 16 and paragraph [0069]. None of the embodiments of Christoffel et al. teach or suggest that the swimsuit can have side seams attached along only a portion of their length while another portion of the length being free from attachment.

Thus, Christoffel et al. (like Rosch et al.) fail to teach or suggest an absorbent garment having side seams of the absorbent garment with a respective upper segment along which front side margins and back side margins of the absorbent garment are attached to each other, the upper segment having a length extending from the waist opening of the absorbent garment to less than about 50 percent of the length of the side seam, the front side margins and the back side margins of the absorbent garment being free from attachment to each other along the remaining length of each respective side seam

generally from the upper segment of said side seam to the respective outer leg opening of the absorbent garment as recited in claim 21.

Since both Rosch et al. and Christoffel et al. fail individually to teach or suggest the same feature of claim 21, a combination of these references must fail to teach or suggest each and every feature of claim 21.

The Office has taken the position that "it would be obvious to one of ordinary skill in the art to modify said side seams so as to contain both refastenable and non-refastenable portions, for example having a non-refastenable portion located above fasteners 96 on each side seam". See page 6, second paragraph of the final Office action. However, claim 21 recites that the front side margins and the back side margins of the absorbent garment are free from attachment to each other along the remaining length of each respective side seam generally from the upper segment of said side seam to the respective outer leg opening of the absorbent garment. That is, whether the side edges are part refastenable and part non-refastenable begs the issue because either way, the side edges are fastened together, which is counter the recitation in claim 21 that the front and back side margins are free from attachment along the remaining length of the side seams. Thus, applicants submit that the position taken by the Office does not read on the language of the claim and thus fails to establish a *prima facie* case of obviousness with respect to claim 21.

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For these reasons, claim 21 is submitted to be nonobvious and patentable over the references of record.

Claims 22-36 depend directly or indirectly from claim 21 and are submitted to be patentable over the references of record for the same reasons as claim 21.

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**CONCLUSION**

In view of the foregoing, favorable consideration and allowance of claims 1-36 is respectively requested.

Respectfully submitted,



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